

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 6/18/2013	(3) CONTACT/PHONE John Diodati, Administrative Services (805) 788-2832	
(4) SUBJECT Submittal of a resolution initiating proceedings to establish a Tract 1747 Nipomo Streetlight Assessment District and Proposition 218 Ballot Process. District 4.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: <ol style="list-style-type: none"> 1. Adopt the resolution initiating proceedings for the formation of Tract 1747 Streetlight Assessment District to: <ol style="list-style-type: none"> a. Propose formation of a streetlight assessment district entitled Tract 1747 Streetlight Assessment District (subject to successful Prop 218 proceeding); b. Adopt a boundary map for the proposed assessment district; c. Establish the improvements included and funding responsibilities of the proposed assessment district; and d. Direct the Department of Public Works to prepare an Engineer's Report for the proposed assessment district. 2. Preliminarily approve the Draft Engineer's Report for Tract 1747 Streetlight Assessment District 3. Initiate assessment proceedings in the Tract 1747 Streetlight Assessment District by: <ol style="list-style-type: none"> a. Approving the assessment ballot package for form and content; b. Directing the Clerk of the Board to mail, collect, tabulate, record and confirm the results of the election; and c. Set a public hearing date for August 13, 2013 to consider objections or protests to the formation of an assessment district. 			
(6) FUNDING SOURCE(S) Assessments	(7) CURRENT YEAR FINANCIAL IMPACT \$15,000.00	(8) ANNUAL FINANCIAL IMPACT \$7,815.30	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input type="checkbox"/> Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 10/16/12; C-2	
(17) ADMINISTRATIVE OFFICE REVIEW			
(18) SUPERVISOR DISTRICT(S) District 4 -			

Reference: 13JUN18-C-5

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
John Diodati, Administrative Services

VIA: Paavo Ogren, Director of Public Works

DATE: 6/18/2013

SUBJECT: Submittal of a resolution initiating proceedings to establish a Tract 1747 Nipomo Streetlight Assessment District and Proposition 218 Ballot Process. District 4.

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Adopt the resolution initiating proceedings for the formation of Tract 1747 Streetlight Assessment District to:
 - a. Propose formation of a streetlight assessment district entitled Tract 1747 Streetlight Assessment District (subject to successful Prop 218 proceeding);
 - b. Adopt a boundary map for the proposed assessment district;
 - c. Establish the improvements included and funding responsibilities of the proposed assessment district; and
 - d. Direct the Department of Public Works to prepare an Engineer's Report for the proposed assessment district.
2. Preliminarily approve the Draft Engineer's Report for Tract 1747 Streetlight Assessment District
3. Initiate assessment proceedings in the Tract 1747 Streetlight Assessment District by:
 - a. Approving the assessment ballot package for form and content;
 - b. Directing the Clerk of the Board to mail, collect, tabulate, record and confirm the results of the election; and
 - c. Set a public hearing date for August 13, 2013 to consider objections or protests to the formation of an assessment district.

DISCUSSION

Tract 1747 is located northeasterly of the intersection of Thompson Avenue and Chestnut Street in the community of Nipomo (see attached Vicinity Map). The recordation of both phases of Tract 1747 created 152 new parcels including 151 residential parcels and one open space parcel. The tract was

conditioned to construct frontage and project interior improvements to urban street standards; private and public drainage facilities; and utilities to serve each new lot. These improvements were accepted as complete by Public Works on June 1, 2009. Although not required as a project condition of approval, streetlights were also constructed as shown on the approved public improvement plans on file with the Department of Public Works.

During construction, the developer entered into an agreement with Pacific Gas and Electric (PG&E) to energize the newly installed streetlights on those streets where residences had been constructed and were occupied. According to PG&E, the developer stopped making their electrical payments on or about December 9, 2009, and in response to PG&E's consideration of de-energizing the streetlights, a community meeting was held July 21, 2011, to discuss alternatives.

From an informal survey, over 80% of Tract 1747 property owners are believed to support public administration and a property assessment for continued operation and maintenance of the existing subdivision streetlights. Because annexation is required prior to establishing a streetlight assessment district, your Board, on October 16, 2012, requested the Local Agency Formation Commission (LAFCO) process an amendment to the sphere of influence and annexation of Tract 1747 into the Nipomo Lighting District.

The LAFCO application for annexation was approved on May 16, 2013, and now Public Works is returning to your Board to begin the assessment district formation hearings in accordance with the Landscaping and Lighting Act of 1972 (see Streets & Highway Code §22500 et seq). Because the statutory process results in the levy of assessment, it also is subject to Proposition 218 and the Proposition 218 Omnibus Implementation Act (Government Code §§53739, 53750, 53753 & 53753.5).

Annexation into the district is subject to a successful Proposition 218. That is, in order to file a Certificate of Completion with the County Clerk for finalization of the annexation, Public Works must demonstrate a successful 218 process for funding the operation and maintenance of the streetlights.

Subsequent Hearings

If staff's recommendations are approved, then the proposition 218 requirements (§53753 G.C.) specify that your Board hold a public hearing on this item in not less than 45 days after the mailing of the ballots. At that hearing, interested persons may present testimony for or against the proposed assessment and may submit ballots. Ballots may not be opened until the close of the hearing, at which time the matter will be continued for approximately two (2) weeks to allow for the preparation of a certificate of election. This hearing will be scheduled for August 13, 2013, with the ballots being reported at the August 27, 2013 meeting.

Proposition 218 Process for Assessment District Formation

Board of Supervisors Meetings				
Meeting 1 Consent (Today's Action)		Meeting 2 Hearing		Meeting 3 Hearing
<ul style="list-style-type: none">• Receive and file Engineer's Report• Set hearing• Direct Clerk to mail notice and ballots to the owner of each parcel subject to the assessment• Adopt "Initial Resolution" of Intention	At least 45 days	<ul style="list-style-type: none">• Consider assessment district formation• Receive testimony and ballots.• Continue hearing• Direct Clerk to tabulate ballots	Approximately 2 weeks	<ul style="list-style-type: none">• Declare ballot results• Certify election• Action on "Confirming Resolution" to form district

OTHER AGENCY INVOLVEMENT/IMPACT

The tentative tract map was processed by the Planning and Building Department and approved by the Planning Commission following review by various County departments and other agencies. Representatives from LAFCO, NCSD and PG&E have responded to the residents' concerns as has Supervisor Teixeira. LAFCO processed and will complete the annexation of Tract 1747 into the Nipomo Lighting District contingent upon the outcome of this assessment election. We have reviewed this item with the office of County Counsel, who concurs with our recommendations. The County Clerk-Recorder was coordinated with in order to schedule the Proposition 218 proceedings.

FINANCIAL CONSIDERATIONS

The Services to Special Districts fund was used to process the LAFCO annexation application and is being used to fund this assessment district formation process (Proposition 218 election). The total estimated cost to process both applications is \$15,000. If the assessment district formation process is unsuccessful, then the estimated cost may be reduced.

If the proposed District is established, the ongoing costs of operation and maintenance of the streetlights are estimated to be \$7,815.30 per year which will be entirely offset by the assessment charged to each of the 151 residential lots created by this subdivision. Based on the Draft Engineer's Report, the proposed assessment that will be on the ballot is \$51.76 per residential parcel (this does not include a \$2 per parcel assessment collection charged by Auditor Controller).

To pay for the future costs of providing streetlight services, the assessment shall be adjusted annually every July 1st in an amount not exceeding the lesser of three percent (3%) or by the average of the percentage increases in the Consumer Price Index (CPI) for "All Urban Wage Earners and Clerical Workers" for all items for San Francisco/Oakland/San Jose and Los Angeles/Riverside/Orange County categories as published by the Bureau of Labor Statistics in April of each year.

RESULTS

Your actions today will result in setting a public hearing for August 13, 2013 for the purpose of conducting a Proposition 218 ballot proceeding, as required by law, to establish whether an Assessment District for streetlight operation and maintenance will be supported by the property owners of Tract 1747.

If the ballot proceeding is unsuccessful, operation of the lights within Tract 1747 would not be provided by formation of the proposed District and LAFCO would not final the proposed Districts annexation into the Nipomo Lighting District. The interested residents of Tract 1747 must then make other arrangements in order to keep their streetlights energized.

File: Tract 1747-Streetlights

Reference: 13JUN18-C-5

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ATTACHMENTS

1. Vicinity Map
2. Resolution of Intention to Establish the Tract 1747 Streetlight Assessment District Pursuant to the Landscaping and Lighting Act of 1972 & Calling and Giving Notice of the Holding of an Assessment Proceeding to be Held on Aug 13, 2013, for the Parcel of Tract 1747